



4000-01-U

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records -- School Participation Division Complaints Tracking System

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), 5 U.S.C. 552a, the Chief Operating Officer for Federal Student Aid (FSA) of the Department of Education (Department) publishes this notice proposing to add a new system of records entitled "School Participation Division Complaints Tracking System (SPD-CTS)" (18-11-19).

DATES: Submit your comments on this proposed new system of records on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Department has filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 19, 2013. This new system of records will become effective on the later date of: (1) expiration of the 40-day period for OMB review on April 1,

2013, unless OMB waives 10 days of the 40-day review period for compelling reasons shown by the Department; or (2) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the School Participation Division - Complaints Tracking System to: Performance Improvement and Procedures Services Group Director, FSA, U.S. Department of Education, Union Center Plaza (UCP), 830 First Street, NE., Washington, DC 20202-5435. Telephone: 202-377-4232. If you prefer to send comments through the Internet, use the following address: comments@ed.gov.

You must include the term "SPD-CTS" in the subject line of your electronic message.

During and after the comment period, you may inspect all public comments about this notice at the U.S.

Department of Education in room 72E1, UCP, 7th Floor, 830 First Street, NE., Washington, DC 20202-5435 between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record

On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Performance Improvement and Procedures Services Group Director, FSA, U.S.

Department of Education, UCP, 830 First Street, NE., Washington, DC 20202-5435. Telephone: 202-377-4232. If you use a telecommunications device for the deaf (TDD), or text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Introduction:

In accordance with Executive Order 13607 of April 27, 2012, the Department's Federal Student Aid office has created a complaint system to strengthen enforcement and compliance mechanisms. The SPD-CTS will register and track complaints and responses for students receiving Federal military, veteran's educational, or Federal title IV, Higher Education Act of 1965, as amended (HEA) program benefits. Information may be shared with other Federal

agencies, such as the Department of Veterans Affairs, the Department of Defense, the Department of Justice, and the Consumer Financial Protection Board (CFPB), for the purposes indicated in the routine uses published below and provided that such disclosure is permissible under the Family Educational Rights and Privacy Act (FERPA).

Complaints are received through various resources (including, but not limited to, the public, school officials, external oversight partners, students, referrals from Federal, State, or local agencies, and other FSA offices), regarding issues such as administrative capability, school closure, disbursements, foreign schools, misrepresentation, and loan issues or student eligibility issues. Complaints are typically received via telephone or written correspondence by either FSA or the Office of Inspector General; however, complaints are registered without regard to the manner in which they are submitted. The preferred method for the receipt of title IV complaints and allegations is via e-mail using the general SPD mailbox at Caseteams@ed.gov.

Upon receipt, the complaint or allegation is sent to the appropriate SPD team member for review, follow-up, and resolution. The complaints and allegations are reviewed to establish facts and circumstances regarding the alleged

impropriety relating to the administration of the title IV, HEA programs. If the complaint or allegation is found to have merit, SPD takes the appropriate compliance action.

The purposes of the SPD-CTS are to capture complaint and allegation information from any source, to track complaints and allegations accurately by maintaining an audit trail of actions taken by the SPD, to provide geographically dispersed team members with meaningful and up-to-date information at decision points for SPD activities, to routinely resolve complaints within a timely manner, to report annually to Congress, to provide oversight and to ensure program integrity, thus safeguarding taxpayers' interests, to identify title IV, HEA program issues that may lead to law enforcement investigations, litigation, or other proceedings for use in such proceedings, to refer instances of possible fraud and abuse in Federal, State, or local programs to appropriate persons, entities, or authorities, where they may be covered by other Privacy Act system of records notices, and to create a centralized complaint system for students receiving educational benefits to register complaints that can be tracked and responded to by appropriate Federal, State, or local persons, entities, or authorities, where

they also may be covered by other Privacy Act system of records notices.

The SPD-CTS includes records on individuals who have received title IV, HEA program assistance and are unsatisfied with their institutions of higher education. These records not only contain complaints and allegations against institutions of higher education, but they also contain, individually identifying information about title IV, HEA recipients, including, but not limited to their: names, street addresses, e-mail addresses, and phone numbers. The information in the SPD-CTS may be shared with other law enforcement agencies for the purposes indicated in the routine uses published below and provided that such disclosure is consistent with FERPA.

Anyone in the SPD can add cases; those records will be held in accordance with federal record retention policies. In order to view the contents of the SPD-CTS on the Web site, a password is required to access SPD-CTS on the Web site.

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4) and (11)) requires the Department to publish this notice of a new system of records in the Federal Register. The

Department's regulations implementing the Privacy Act are contained in 34 CFR part 5b.

The Privacy Act applies to any record about an individual that contains individually identifying information and that is retrieved by a unique identifier associated with each individual, such as a name or Social Security number (SSN). The information about each individual is called a "record," and the system, whether manual or computer-based, is called a "system of records."

The Privacy Act requires each agency to publish a system of records notice in the Federal Register and to prepare reports to the Administrator of the Office of Information and Regulatory Affairs, OMB whenever the agency publishes a new system of records or significantly alters an established system of records. Each agency is also required to send copies of the report to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House of Representatives Committee on Oversight and Government Reform. These reports are included to permit an evaluation of the probable effect of the proposal on the privacy rights of individuals.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g.,

braille, large print, audiotape, or compact disc) on request to the contact person listed under this section.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of the Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 19, 2013.

James W. Runcie,
Chief Operating Officer,
Federal Student Aid.

For the reasons discussed in the introduction, the Chief Operating Officer, Federal Student Aid, U.S. Department of Education (Department) publishes a new system of records to read as follows:

SYSTEM NUMBER

18-11-19

SYSTEM NAME:

"School Participation Division - Complaints Tracking System (SPD-CTS)".

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The information in the SPD-CTS is on an Intranet Web site called PCNet and is maintained by a School Participation Division (SPD) staff member in the Department's Dallas Regional Office located at 1999 Bryan Street, Suite 1410, Dallas, Texas 75201-6817. The Web site itself is located at the Virtual Data Center, maintained by Dell Perot Systems, 2300 W. Plano Parkway, Plano, Texas 75075-8427.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of individuals who file a complaint or allegation against an institution of higher

education (IHE) related to the administration of title IV, Higher Education Act of 1965, as amended (HEA) programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the SPD-CTS include, but are not limited to, data about individuals who have filed a complaint or allegation about an IHE. The records contain individually identifying information about these individuals, including, but not limited to their: names, addresses, e-mail addresses, and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is authorized under Executive Order 13607 of April 27, 2012 and title IV of the HEA, 20 U.S.C. 1070 et seq.

PURPOSES:

The information contained in this system is maintained for the following purposes: (1) to capture complaint and allegation information from any source; (2) to track complaints and allegations accurately by maintaining an audit trail of actions taken by the SPD; (3) to provide geographically dispersed staff with meaningful and up-to-date information at decision points for SPD activities; (4) to routinely resolve complaints within a timely manner; (5) to report annually to Congress; (6) to provide oversight

and to ensure program integrity, thus safeguarding taxpayers' interests; (7) to identify title IV, HEA program issues that may lead to law enforcement investigations, litigation, or other proceedings and for use in such proceedings; (8) to refer instances of possible fraud and abuse in Federal, State, or local programs to appropriate persons, entities, or authorities, where they may be covered by other Privacy Act system of records notices; and, (9) to create a centralized complaint system for students receiving educational benefits to register complaints that can be tracked and responded to by appropriate Federal, State, or local persons, entities, or authorities, where they also may be covered by other Privacy Act system of records notices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis, or if the Department has complied with the computer

matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement. To the extent any routine use disclosure published below involves the disclosure of personally identifiable information from education records protected by the Family Educational Rights and Privacy Act (FERPA), such disclosure only will be made to the extent that it is permissible under FERPA.

(1) Program Purposes. The Department may disclose records from the SPD-CTS system of records for the following program purposes:

(a) To verify the identity of the complainant involved or the accuracy of any complaint record in this system of records, or to assist with the determination of program eligibility and benefits, the Department may disclose records to IHEs; third-party servicers; or Federal, State, or local agencies.

(b) To support the investigation of possible fraud and abuse and to detect and prevent fraud and abuse in Federal, State, or local programs, disclosures may be made to IHEs; third-party servicers; or Federal, State, or local agencies.

(c) To support the creation of a centralized complaint system for students receiving educational

benefits and to permit those complaints to be responded to by appropriate persons, entities, or authorities, disclosures may be made to appropriate Federal, State, or local persons, entities, or authorities.

(2) Congressional Member Disclosure. The Department may disclose the records of an individual to a member of Congress or the member's staff when necessary to respond to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) Disclosure for Use by Other Law Enforcement Agencies. The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(4) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a

violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive Order, rule, regulation, or order issued pursuant thereto.

(5) Litigation or Alternative Dispute Resolution
(ADR) Disclosure.

(a) Introduction. In the event that one of the following parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department, or any of its components;
- (ii) Any Department employee in his or her official capacity;
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation of the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to the DOJ. If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) Adjudicative Disclosure. If the Department determines that it is relevant and necessary to litigation or ADR to disclose certain records from this system of records to an adjudicative body before which the Department is authorized to appear or to an individual or an entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) Disclosure to Parties, Counsel, Representatives, or Witnesses. If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR,

the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(6) Employment, Benefit, and Contracting Disclosure.

(a) For Decisions by the Department. The Department may disclose information from this system of records to a Federal, State, or local agency or to another public authority or professional organization, if necessary, to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit.

(b) For Decisions by Other Public Agencies and Professional Organizations. The Department may disclose information from this system of records to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit, to the extent that the record is relevant to the receiving entity's decision on the matter.

(7) Employee Grievance, Complaint, or Conduct Disclosure. If a record is relevant and necessary to a grievance, complaint, or disciplinary proceeding involving a present or former employee of the Department, the Department may disclose a record from this system of records in the course of investigation, fact-finding, or adjudication to any party to the grievance, complaint, or action; to the party's counsel or representative; to a witness; or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter. The disclosure may only be made during the course of investigation, fact-finding, or adjudication.

(8) Labor Organization Disclosure. The Department may disclose a record from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of a labor organization recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(9) Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure. The Department may disclose records from this system of records to the DOJ or Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining

whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(10) Disclosure to the DOJ. The Department may disclose records from this system of records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) Contract Disclosure. If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department must require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(12) Research Disclosure. The Department may disclose records from this system of records to a researcher if the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this

system of records. The researcher must be required to maintain Privacy Act safeguards with respect to the disclosed records.

(13) Disclosure to OMB for Credit Reform Act (CRA) Support. The Department may disclose records from this system of records to OMB as necessary to fulfill CRA requirements.

(14) Disclosure in the Course of Responding to a Breach of Data. The Department may disclose records from this system of records to appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that the security or confidentiality of information in this system has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or by another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist the Department's efforts to respond to

the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): the Department may disclose information regarding a valid, overdue claim of the Department to a consumer reporting agency. Such information is limited to (1) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department electronically stores the complaints and allegations on an Intranet Web site. The Web site is located at the Virtual Data Center in Plano, Texas.

RETRIEVABILITY:

Records in the SPD-CTS system are retrieved by searching any of the following data elements: complainant's name, institution's name, reviewer's name or Office of Postsecondary Education identification (OPEID) number.

SAFEGUARDS:

In addition to undergoing security clearances, contract and Department employees are required to complete security awareness training on an annual basis. Annual security awareness training is required to ensure that contract and Department users are appropriately trained in safeguarding Privacy Act data in accordance with OMB Circular No. A-130, Appendix III.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need-to-know" basis and controls individual users' ability to access and alter records within the system. All users of this system of records are given a password. The Department's FSA Information Security and Privacy Policy requires the enforcement of a complex password policy. This password is only given to SPD staff who are assigned to investigate and resolve the

complaint(s).

RETENTION AND DISPOSAL:

The records created by this system are currently unscheduled. ED will apply to the National Archives and Records Administration (NARA) for disposition authority that covers these records. Until disposition authority is received from NARA, no records will be destroyed.

SYSTEM MANAGER AND ADDRESS:

Dale Shaw, FSA, U.S. Department of Education, 1999 Bryan Street, Suite 1410, Dallas, Texas 75201-6817.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, address, e-mail address, and phone number. Requests must meet the requirements in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, provide the system manager with your name, address, e-mail address, and phone number. Requests by an individual for access to a record must meet the requirements in the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to change the content of your personal record within the system of records, provide the system manager with your name, address, e-mail address, and phone number. Identify the specific items to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

This system includes records on individuals who may have received title IV, HEA program assistance. These records include information provided by various sources (including, but not limited to, the public, school officials, external oversight partners, students, referrals from Federal, State, or local agencies, and other FSA offices). The Department's Office of Inspector General (OIG) may also refer complaints and allegations received via the OIG Hotline that do not appear to require an OIG audit, a formal OIG investigation, or action by any other federal agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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